

# HOUSE BILL No. 1500

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-1-3; IC 7.1-2; IC 7.1-3; IC 7.1-4; IC 7.1-5; IC 35-46-1-10.1.

**Synopsis:** Alcoholic beverage issues. Defines "grocery store" for purposes of the alcoholic beverage laws. Allows the alcohol and tobacco commission (ATC) to renew or transfer ownership of a beer dealer's permit for a beer dealer who: (1) held a permit before July 1, 2007; and (2) does not qualify for a permit as a grocery store under the definition of "grocery store". Requires a local alcoholic beverage board to allow an individual to make oral comments at a public meeting or hearing. Requires a dealer permittee (that is not a package liquor store) to display alcohol in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age. Requires alcoholic beverage sales in a dealer establishment to be rung up by a sales clerk who: (1) has an employee permit; (2) has alcohol server training; and (3) is at least 21 years of age (this is currently the case with package liquor stores). Reduces the number of liquor and beer dealer permits authorized by the quota that may be issued within a city or town. Increases the penalty for furnishing an alcoholic beverage to a minor to: (1) a Class B misdemeanor for the first offense; (2) a Class A misdemeanor for a subsequent offense; and (3) a Class D felony if the illegal furnishing of the alcoholic beverage results in serious bodily injury to or the death of any person. Provides that a violation occurs if a person recklessly, knowingly, or intentionally furnishes an alcoholic beverage to a minor. (Current law provides that a violation occurs if a person recklessly furnishes an alcoholic beverage to a minor.) Allows the ATC to conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed. Allows a person at least 18 years of

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**Effective:** July 1, 2007.

Stutzman

January 23, 2007, read first time and referred to Committee on Public Policy.



age and less than 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action. Allows the ATC to collect the following fees for deposit in the enforcement and administration fund: (1) A \$1,000 annual registration of a primary source of supply. (2) A \$100 biennial salesman's license fee. (3) A \$100 annual carrier's license fee. Changes the distribution of certain permit fees from the excise fund by: (1) eliminating the distribution to the state general fund; and (2) increasing the distribution to the enforcement and administration fund from 30% to 67%. Allows an excise enforcement officer to engage a person who is at least 18 years of age and less than 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action. Provides for graduated civil penalties against a permittee for repeat violations of furnishing alcohol to a minor on the licensed premises. Repeals a provision that distributes 37% of certain permit fees from the excise fund to the state general fund.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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## HOUSE BILL No. 1500

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A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. (a) "Grocery store" means**  
4 **a store or a part of a store that:**  
5 **(1) has the primary North American Industry Classification**  
6 **System (NAICS) classification 445110 or 452910; and**  
7 **(2) is primarily engaged in the retail sale of a general food**  
8 **line, which may include:**  
9 **(A) canned and frozen foods;**  
10 **(B) dry goods, including tea, coffee, sugar, and flour;**  
11 **(C) fresh fruits and vegetables; and**  
12 **(D) fresh and prepared meats.**  
13 **(b) The term does not include a store that has less than two**  
14 **hundred fifty thousand dollars (\$250,000) in annual gross sales of**  
15 **food, excluding the following:**



- (1) Candy, confectionaries, and chewing gum.
- (2) Alcoholic beverages.
- (3) Cocktail mixers.
- (4) Soft drinks, sodas, and other similar beverages.
- (5) Medicines, tonics, vitamins, and other dietary supplements.
- (6) Water (except natural spring water), mineral water, carbonated water, and ice.
- (7) Pet food.
- (8) Food furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant.
- (9) Meals served by a retail merchant off the merchant's premises.
- (10) Food sold by a retail merchant who ordinarily bags, wraps, or packages the food for immediate consumption on or near the merchant's premises, including food sold on a "take out" or "to go" basis.
- (11) Food sold through a vending machine.
- (12) Tobacco products.

SECTION 2. IC 7.1-1-3-40.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 40.5. "Sales clerk" means a person who:**

- (1) rings up; or
- (2) otherwise records;

**an alcoholic beverage sale in the course of the person's employment in a dealer establishment.**

SECTION 3. IC 7.1-2-4-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24. A local board shall allow all individuals attending a public local board meeting or hearing to make oral comments at the meeting or hearing regarding the subject of the meeting or hearing. However, a local board may set a reasonable limit on the amount of time allowed to each individual to provide oral comment.**

SECTION 4. IC 7.1-2-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. ~~Forfeiture to State.~~** An officer who makes an arrest for a violation of the provisions of this title shall seize the evidence of the commission of that violation, including any vehicle, automobile, boat, air or water craft, or other conveyance in which alcohol, alcoholic beverages, or malt articles are kept, possessed, or transported contrary to law, or contrary to a rule or

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1 regulation of the commission. The articles and vehicles mentioned in  
 2 this section and in ~~IC 1971, 7.1-2-5-5, 7.1-2-5-7, IC 7.1-2-5-5 through~~  
 3 **IC 7.1-2-5-7**, are hereby declared forfeited to the state and shall be  
 4 seized.

5 SECTION 5. IC 7.1-3-1.5-2, AS ADDED BY P.L.161-2005,  
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2007]: Sec. 2. As used in this chapter, "dealer permittee"  
 8 means a person who holds a liquor dealer permit. ~~under IC 7.1-3-10 for~~  
 9 ~~a package liquor store.~~

10 SECTION 6. IC 7.1-3-5-3 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The holder of a  
 12 beer dealer's permit shall be entitled to purchase beer for sale under the  
 13 permit only from a permittee entitled to sell to a beer dealer under this  
 14 title.

15 (b) A beer dealer shall be entitled to possess beer and sell it at retail  
 16 to a customer in permissible containers only.

17 (c) A beer dealer may not sell beer by the drink nor for consumption  
 18 on the licensed premises nor shall a beer dealer allow it to be consumed  
 19 on the licensed premises.

20 (d) Except as provided in subsection ~~(c)~~, **(f)**, a beer dealer shall be  
 21 entitled to sell beer to a customer and ~~to~~ deliver it in permissible  
 22 containers to the customer on the licensed premises, or to the  
 23 customer's residence or office.

24 **(e) This subsection does not apply to a package liquor store.**  
 25 **Beer shall be displayed in a designated area separated from the**  
 26 **area where nonalcoholic retail merchandise is displayed. A minor**  
 27 **may not enter the designated area without a parent or guardian**  
 28 **who is at least twenty-one (21) years of age. The designated area**  
 29 **shall be monitored by an employee who, as part of the employee's**  
 30 **job responsibilities, shall ensure that a minor does not enter the**  
 31 **designated area without a parent or guardian who is at least**  
 32 **twenty-one (21) years of age. A sales clerk who rings up or**  
 33 **otherwise records a sale of beer must be at least twenty-one (21)**  
 34 **years of age.**

35 **(f)** A beer dealer shall not be entitled to sell and deliver beer on the  
 36 street or at the curb outside the licensed premises, nor shall a beer  
 37 dealer be entitled to sell beer at a place other than the licensed  
 38 premises. A beer dealer shall not be entitled to sell beer and deliver  
 39 beer for carry-out, or for delivery to a customer's residence or office, in  
 40 a quantity that exceeds eight hundred sixty-four (864) ounces in a  
 41 single transaction. However, notwithstanding IC 7.1-5-10-11, a beer  
 42 dealer who is licensed pursuant to IC 7.1-3-10-4 shall be entitled to sell

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and deliver warm or cold beer for carry-out, or for delivery to a customer's residence, office, or a designated location in barrels or other commercial containers that do not exceed two thousand sixteen (2,016) ounces per container. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

~~(c)~~ (g) Unless a beer dealer is a grocery store or drug store, a beer dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A beer dealer that is a grocery store or drug store may sell any item except alcoholic beverages through a window in the licensed premises to a patron who is outside the licensed premises.

SECTION 7. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. Notwithstanding IC 7.1-1-3-18.5, the commission may renew or transfer ownership of a beer dealer's permit for a beer dealer who:**

**(1) held a permit before July 1, 2007; and**

**(2) does not qualify for a permit as a grocery store under IC 7.1-1-3-18.5.**

SECTION 8. IC 7.1-3-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The holder of a liquor dealer's permit shall be entitled to purchase liquor only from a permittee entitled to sell to a liquor dealer under this title.

(b) A liquor dealer shall be entitled to possess liquor and sell it at retail in its original package, to a customer only for consumption off the licensed premises.

**(c) This subsection does not apply to a package liquor store. Liquor shall be displayed in a designated area separated from the area where nonalcoholic retail merchandise is displayed. A minor may not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age. The designated area shall be monitored by an employee who, as part of the employee's job responsibilities, shall ensure that a minor does not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age. A sales clerk who rings up or otherwise records a sale of liquor must be at least twenty-one (21) years of age.**

~~(c)~~ (d) A liquor dealer may deliver liquor only in permissible containers to a customer's residence or office in a quantity that does not

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1 exceed twelve (12) quarts at any one (1) time. However, a liquor dealer  
 2 who is licensed under IC 7.1-3-10-4 may deliver liquor in permissible  
 3 containers to a customer's residence, office, or designated location.  
 4 This delivery may only be performed by the permit holder or an  
 5 employee who holds an employee permit. The permit holder shall  
 6 maintain a written record of each delivery for at least one (1) year that  
 7 shows the customer's name, location of delivery, and quantity sold.

8 ~~(d)~~ (e) A liquor dealer may not sell or deliver alcoholic beverages  
 9 or any other item through a window in the licensed premises to a patron  
 10 who is outside the licensed premises. However, a liquor dealer that is  
 11 a drug store may sell prescription drugs and health and beauty aids  
 12 through a window in the licensed premises to a patron who is outside  
 13 the licensed premises.

14 SECTION 9. IC 7.1-3-15-3 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The holder of a  
 16 wine dealer's permit shall be entitled to purchase wine only from a  
 17 permittee who is authorized to sell to a wine dealer under this title. A  
 18 wine dealer shall be entitled to sell wine, for consumption off the  
 19 licensed premises only and not by the drink.

20 **(b) This subsection does not apply to a package liquor store.**  
 21 **Wine shall be displayed in a designated area separated from the**  
 22 **area where nonalcoholic retail merchandise is displayed. A minor**  
 23 **may not enter the designated area without a parent or guardian**  
 24 **who is at least twenty-one (21) years of age. The designated area**  
 25 **shall be monitored by an employee who, as part of the employee's**  
 26 **job responsibilities, shall ensure that a minor does not enter the**  
 27 **designated area without a parent or guardian who is at least**  
 28 **twenty-one (21) years of age. A sales clerk who rings up or**  
 29 **otherwise records a sale of wine must be at least twenty-one (21)**  
 30 **years of age.**

31 ~~(b)~~ (c) A wine dealer shall be entitled to sell wine in permissible  
 32 containers in a quantity of not more than three (3) standard cases, as  
 33 determined under the rules of the commission, in a single transaction.  
 34 However, a wine dealer who is licensed under IC 7.1-3-10-4 may  
 35 possess wine and sell it at retail in its original package to a customer  
 36 only for consumption off the licensed premises.

37 ~~(c)~~ (d) Unless a wine dealer is a grocery store or drug store, a wine  
 38 dealer may not sell or deliver alcoholic beverages or any other item  
 39 through a window in the licensed premises to a patron who is outside  
 40 the licensed premises. A wine dealer that is a grocery store or drug  
 41 store may sell any item except alcoholic beverages through a window  
 42 in the licensed premises to a person who is outside the licensed

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1 premises.

2 ~~(d)~~ (e) However, a wine dealer who is licensed under IC 7.1-3-10-4  
3 may deliver wine only in permissible containers to a customer's  
4 residence, office, or designated location. This delivery may only be  
5 performed by the permit holder or an employee who holds an employee  
6 permit. The permit holder shall maintain a written record of each  
7 delivery for at least one (1) year that shows the customer's name,  
8 location of delivery, and quantity sold.

9 SECTION 10. IC 7.1-3-18-9, AS AMENDED BY P.L.165-2006,  
10 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2007]: Sec. 9. (a) **Except as provided in subsection (j)**, the  
12 commission may issue an employee's permit to a person who desires to  
13 act as:

- 14 (1) a sales clerk in a ~~package liquor store~~; **dealer establishment**;  
15 (2) an employee who serves wine at a farm winery; or  
16 (3) a bartender, waiter, waitress, or manager in a retail  
17 establishment. ~~excepting dining car and boat employees.~~

18 (b) A permit authorized by this section is conditioned upon the  
19 compliance by the holder with reasonable rules relating to the permit  
20 which the commission may prescribe from time to time.

21 (c) A permit issued under this section entitles its holder to work for  
22 any lawful employer. However, a person may work without an  
23 employee's permit for thirty (30) days from the date shown on a receipt  
24 for a cashier's check or money order payable to the commission for that  
25 person's employee's permit application.

26 (d) A person who, for a package liquor store or retail establishment,  
27 is:

- 28 (1) the sole proprietor;  
29 (2) a partner, a general partner, or a limited partner in a  
30 partnership or limited partnership that owns the business  
31 establishment;  
32 (3) a member of a limited liability company that owns the  
33 business establishment; or  
34 (4) a stockholder in a corporation that owns the business  
35 establishment;

36 is not required to obtain an employee's permit in order to perform any  
37 of the acts listed in subsection (a).

38 (e) An applicant may declare on the application form that the  
39 applicant will use the employee's permit only to perform volunteer  
40 service that benefits a nonprofit organization. It is unlawful for an  
41 applicant who makes a declaration under this subsection to use an  
42 employee's permit for any purpose other than to perform volunteer

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service that benefits a nonprofit organization.

(f) The commission may not issue an employee's permit to an applicant while the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.

(g) The commission may not issue an employee's permit to an applicant who has two (2) unrelated convictions for operating while intoxicated if:

(1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and

(2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit.

(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated in the ten (10) years immediately preceding the date of the applicant's application for the permit, the commission may not grant the issuance of the permit. If, in the ten (10) years immediately preceding the date of the applicant's application the applicant has:

(1) one (1) conviction for operating while intoxicated, and the applicant is not subject to subsection (f); or

(2) two (2) unrelated convictions for operating while intoxicated, and the applicant is not subject to subsection (f) or (g);

the commission may grant or deny the issuance of a permit.

(i) The commission shall revoke a permit issued to an employee under this section if:

(1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or

(2) the employee is convicted of operating while intoxicated after the issuance of the permit.

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

**(j) This section does not apply to a dining car, boat, or airline employees.**

SECTION 11. IC 7.1-3-19-5, AS AMENDED BY P.L.224-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. The commission shall cause one (1) notice of the pending investigation to be published in a newspaper in accordance with the provisions of IC 7.1-3-1-18. The publication of the notice shall be at least ~~thirty (30)~~ **fifteen (15)** days before the investigation.

SECTION 12. IC 7.1-3-22-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. ~~Dealers' Permits Limited.~~ (a) The commission may grant only one (1) beer dealer's permit and one (1) liquor dealer's permit in an incorporated city, town, or unincorporated town for each ~~one thousand five hundred (1,500)~~ **four thousand five hundred (4,500)** persons, or fraction thereof, within the incorporated city, town, or unincorporated town.

(b) **Notwithstanding subsection (a), the commission may renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer who:**

(1) **held a permit before July 1, 2007; and**

(2) **does not qualify for a permit under the quota restrictions in subsection (a).**

SECTION 13. IC 7.1-4-4.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The alcohol and tobacco commission shall issue an annual registration of a primary source of supply (as defined in IC 7.1-1-3-32.5) ~~without charge.~~ **for an annual fee of one thousand dollars (\$1,000). All fees collected under this section shall be deposited in the commission's enforcement and administration fund under IC 7.1-4-10.**

SECTION 14. IC 7.1-4-4.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A biennial license fee of ~~twenty dollars (\$20)~~ **one hundred dollars (\$100)** is imposed for a salesman's license. The term of a biennial salesman's license is two (2) years. **All fees collected under this section shall be deposited in the commission's enforcement and administration fund under IC 7.1-4-10.**

SECTION 15. IC 7.1-4-4.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The annual license fee for a carrier's alcoholic permit is ~~five dollars (\$5).~~ **one hundred dollars (\$100). All fees collected under this section shall be deposited in the commission's enforcement and administration fund under IC 7.1-4-10.**

SECTION 16. IC 7.1-4-7-1, AS AMENDED BY P.L.165-2006, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The chairman shall collect the required annual license fee paid in connection with the issuance of a brewer's permit, a beer wholesaler's permit, a temporary beer permit, a dining car permit of any type, a boat permit of any type, a distiller's permit, a rectifier's permit, a liquor wholesaler's permit, a vintner's permit, a farm winery permit, a farm winery brandy distiller's permit, a wine wholesaler's permit, a wine bottler's permit, a temporary wine permit, **and a direct wine seller's permit.** ~~a salesman's permit, and a carrier's~~

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alcoholic permit.

(b) **The chairman shall collect the fees paid for the registration of a primary source of supply, salesman's permit, and a carrier's alcoholic permit.**

SECTION 17. IC 7.1-4-7-4, AS AMENDED BY P.L.224-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Except as provided in subsection (b), the chairman and the department shall deposit the money collected under sections ~~1, 1(a)~~, 2, and 3 of this chapter daily with the treasurer of state, and not later than the fifth day of the following month shall cover:

(1) thirty-four percent (34%) of the money collected under section ~~1~~ **1(a)** of this chapter into the enforcement and administration fund established under IC 7.1-4-10-1; and

(2) sixty-six percent (66%) of the money collected under section ~~1~~ **1(a)** of this chapter and money collected under sections 2 and 3 of this chapter into the state general fund for state general fund purposes.

(b) The chairman and the department shall deposit all money collected under **section 1(b) of this chapter**, IC 7.1-2-5-3, IC 7.1-2-5-8, IC 7.1-3-17.5, IC 7.1-3-17.7, IC 7.1-3-22-9, ~~and IC 7.1-4-4.1-1, IC 7.1-4-4.1-4, IC 7.1-4-4.1-5, and IC 7.1-4-4.1-8~~ daily with the treasurer of state, and not later than the fifth day of the following month shall cover the money into the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 18. IC 7.1-4-9-7.5, AS ADDED BY P.L.224-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. ~~Thirty percent (30%)~~ **Sixty-seven percent (67%)** of the money in the excise fund shall be deposited in the enforcement and administration fund under IC 7.1-4-10 on the first day of June and the first day of December of each year.

SECTION 19. IC 7.1-5-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) It is unlawful for a person to act as a ~~clerk in a package liquor store; or as a bartender; waiter; waitress; or manager for a retailer permittee in a position that is listed in IC 7.1-3-18-9(a)~~ unless that person has applied for and been issued ~~the appropriate~~ **an employee's** permit. ~~This section does not apply to dining car or boat employees or to a person described in IC 7.1-3-18-9(d).~~

(b) It is a defense to a charge under this section if, within thirty (30) days after being cited by the commission, the person who was cited produces evidence that the appropriate permit was issued by the commission on the date of the citation.

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(c) It is a defense to a charge under this section for a new applicant for a permit if, within thirty (30) days after being cited by the commission, the new applicant who was cited produces a receipt for a cashier's check or money order showing that an application for the appropriate permit was applied for on the date of the citation.

**(d) It is a defense to a charge under this section that the person:**

**(1) acted as a dining car, boat, or airline employee; or**

**(2) is a person described in IC 7.1-3-18-9(d).**

SECTION 20. IC 7.1-5-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) It is a ~~Class C~~ **Class B** misdemeanor for a person to recklessly, **knowingly, or intentionally** sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor.

**(b) However, the offense described in subsection (a) is:**

**(1) a Class A misdemeanor if the person has a prior unrelated conviction under this section; and**

**(2) a Class D felony if the consumption, ingestion, or use of the alcoholic beverage is the proximate cause of the serious bodily injury or death of any person.**

~~(b)~~ (c) This section shall not be construed to impose civil liability upon any educational institution of higher learning, including but not limited to public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless such institution or its agent sells, barter, exchanges, provides, or furnishes an alcoholic beverage to a minor.

SECTION 21. IC 7.1-5-7-13, AS AMENDED BY P.L.161-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

(A) selling;

(B) furnishing, other than serving;

(C) consuming; or

(D) otherwise dealing in;

alcoholic beverages.

(2) A person at least eighteen (18) years of age but less than

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twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment **in a dining area or family room of a restaurant or hotel.**

(3) A person at least nineteen (19) years of age but less than twenty-one (21) years of age who:

(A) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5; and

(B) serves alcoholic beverages in a dining area or family room of a restaurant or hotel:

(i) in the course of a person's employment as a waiter, waitress, or server; and

(ii) under the supervision of a person who is at least twenty-one (21) years of age, is present at the restaurant or hotel, and has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender.

SECTION 22. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section.**

SECTION 23. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:**

**(1) at least eighteen (18) years of age; and**

**(2) less than twenty-one (21) years of age;**

**to receive or purchase alcoholic beverages as part of an enforcement action under this article.**

**(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:**

**(1) occur under the direction of an enforcement officer vested**

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1 with full police powers and duties; and

2 (2) be a part of the enforcement action.

3 SECTION 24. IC 7.1-5-10-23 IS ADDED TO THE INDIANA  
4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) It is unlawful for a person  
6 who is the proprietor of a package liquor store, drug store, or  
7 grocery store to allow a purchaser of alcoholic beverages, or any  
8 other person who is not a sales clerk, to ring up or otherwise  
9 record an alcoholic beverage sale.

10 (b) It is unlawful for a purchaser of alcoholic beverages, or any  
11 other person who is not a sales clerk, to ring up or otherwise  
12 record an alcoholic beverage sale in a:

13 (1) drug store;

14 (2) grocery store; or

15 (3) package liquor store.

16 SECTION 25. IC 35-46-1-10.1 IS ADDED TO THE INDIANA  
17 CODE AS A NEW SECTION TO READ AS FOLLOWS  
18 [EFFECTIVE JULY 1, 2007]: Sec. 10.1. (a) If a permittee or an  
19 agent or employee of a permittee violates IC 7.1-5-7-8 on the  
20 licensed premises, in addition to any other penalty, a civil judgment  
21 may be imposed as follows:

22 (1) If the licensed premises at that specific business location  
23 has not been issued a citation or summons for a violation of  
24 this section in the previous ninety (90) days, a civil penalty of  
25 fifty dollars (\$50).

26 (2) If the licensed premises at that specific business location  
27 has had one (1) citation or summons issued for a violation of  
28 this section in the previous ninety (90) days, a civil penalty of  
29 one hundred dollars (\$100).

30 (3) If the licensed premises at that specific business location  
31 has had two (2) citations or summonses issued for a violation  
32 of this section in the previous ninety (90) days, a civil penalty  
33 of two hundred fifty dollars (\$250).

34 (4) If the licensed premises at that specific business location  
35 has had three (3) or more citations or summonses issued for  
36 a violation of this section in the previous ninety (90) days, a  
37 civil penalty of five hundred dollars (\$500).

38 A permittee may not be issued a citation or summons for a  
39 violation of this section more than once every twenty-four (24)  
40 hours.

41 (b) The defenses set forth in IC 7.1-5-7-5.1 are available to a  
42 permittee in an action under this section.

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1       (c) Unless a person buys or receives an alcoholic beverage under  
2       the direction of a law enforcement officer as part of an  
3       enforcement action, a permittee that sells alcoholic beverages is not  
4       liable for a violation of this section unless the person less than  
5       twenty-one (21) years of age who bought or received the alcoholic  
6       beverage is charged for violating IC 7.1-5-7-7.

7       SECTION 26. IC 7.1-4-9-4 IS REPEALED [EFFECTIVE JULY 1,  
8       2007].

9       SECTION 27. [EFFECTIVE JULY 1, 2007] IC 7.1-5-7-8, as  
10      amended by this act, applies only to offenses committed after June  
11      30, 2007.

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